

JUDGE CHIN

09

CV

8597

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ONEGO SHIPPING  
SHIPPING & CHARTERING BV  
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Owen F. Duffy (OD-3144)  
Michael S. Weinstock (MW-8520)

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
ONEGO SHIPPING & CHARTERING BV,

Plaintiff,

v.

09 CV \_\_\_\_ (\_\_\_\_)

**VERIFIED COMPLAINT**

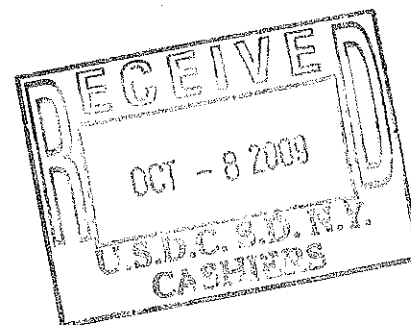
OCEAN BULK CARRIERS CORP.,

Defendant.  
-----X

Plaintiff Onego Shipping & Chartering BV (hereinafter "ONEGO SHIPPING"),  
by its attorneys, Chalos, O'Connor & Duffy, as and for its Verified Complaint against the  
Defendant, OCEAN BULK CARRIERS CORP. (hereinafter "OCEAN BULK"), alleges  
upon information and belief as follows:

**JURISDICTION**

1. This is an admiralty and maritime claim within the meaning of Rule 9(h)  
of the Federal Rules of Civil Procedure, and falls under this Court's admiralty and  
maritime jurisdiction pursuant to 28 U.S.C. § 1333. Additionally, this case falls within



the ambit of this Court's subject matter jurisdiction pursuant to 28 U.S.C. § 1331 in that the action arises under the Federal Arbitration Act, 9 U.S.C. § 1, *et. seq.*

#### THE PARTIES

2. At all times material hereto, Plaintiff ONEGO SHIPPING, was and still is a foreign business entity, duly organized and existing pursuant to the laws of the Netherlands.

3. Plaintiff ONEGO SHIPPING maintains an office and principal place of business at Spui 24 3161 ED Rhoon, Rotterdam, the Netherlands.

4. At all times material hereto, Plaintiff ONEGO SHIPPING, was and is, engaged in the business of owing, chartering and operating ocean vessels engaged in the carriage of cargo in exchange for payments of hire and/or freight.

5. At all times material hereto, Plaintiff ONEGO SHIPPING was the owner, or disponent owner, of the ocean-going motor vessel ONEGO PASSAT.

6. At all times material hereto, Defendant OCEAN BULK was and still is a foreign business entity duly organized and existing pursuant to the laws of Panama.

7. The office and principal place of business of the Defendant OCEAN BULK is unknown, but the Defendant has represented on numerous occasions that its place of business is in care of Frutamar Internacional Ltda. at Blanco 1663, Of. 1601, in Valparaiso, Chile.

8. The Defendant OCEAN BULK is a subsidiary of Frutamar Internacional Ltda., which is a Chilean company that is engaged in the business of exporting various

commodities, *i.e.* produce, fruit, grains and rock salt, from Central and South America to buyers in various countries around the world.

9. The Defendant OCEAN BULK charters vessels for Frutmar Internacional Ltda. so that Frutamar Internacional Ltda. will have vessels to transport its export cargoes to its various customers/buyers around the world.

AS AND FOR A CAUSE OF ACTION  
FOR BREACH OF A MARITIME CONTRACT

THE MARITIME CONTRACT:

10. On or about August 17, 2009 Plaintiff ONEGO SHIPPING, as Owner of the M/V ONEGO PASSAT, entered into a Charter Party contract with Defendant OCEAN BULK, as Charterer, for the use of ONEGO SHIPPING's M/V ONEGO PASSAT. (hereinafter the "Charter Party").

11. The Charter Party contract is in the form of a fixture recap, which set forth the main terms of the contract and otherwise incorporated the terms and conditions of a previous or *proforma* charter party for the M.V. CLIPPER STAMFORD. *See*, Exhibit A, Fixture Recap which provides: "otherwise "clipper stamford" cp dtd 23.04.04 logically amended as per main terms and following..." *See also*, Exhibit B, Proforma charter party for the M.V. CLIPPER STAMFORD.

12. In accordance with the terms and conditions of the Charter Party, it was agreed between the Plaintiff and Defendant that the Defendant OCEAN BULK would ship a cargo of 7,200 m/t of rock salt, in bulk, on board the M.V. ONEGO PASSAT from Caleta Patillos, Chile to Balboa, Panama, the vessel would carry the Defendant OCEAN

BULK's cargo to Balboa and the Defendant would pay freight to the Plaintiff at the rate of at \$24.00 per metric ton of cargo.

13. As per the terms and conditions of the Charter Party, Defendant OCEAN BULK warranted that Plaintiff ONEGO SHIPPING's vessel would only be directed to load and/or discharge at "1spb aaaa", meaning one safe port berth that was always accessible and would always permit the vessel to remain afloat. *See*, Exhibit A.

14. As per the terms and conditions of the Charter Party, in the event of any disputes arising from the Charter Party, the Plaintiff and Defendant agreed that all such disputes would be adjudicated by arbitrators in London and that the Charter Party was to be governed by English law. *See*, Exhibit A.

15. The Charter Party, dated August 17, 2009, between plaintiff ONEGO SHIPPING and defendant OCEAN BULK is a maritime contract.

THE BREACH OF THE MARITIME CONTRACT:

16. In accordance with the terms and conditions of the Charter Party, the M/V ONEGO PASSAT was to proceed to the Port of Caleta Patillos for loading and to arrive there between September 7<sup>th</sup> and September 17<sup>th</sup>, 2009 for loading the Defendant OCEAN BULK's cargo. *See*, Exhibit A.

17. The M.V. ONEGO PASSAT was ready to depart from the Port of San Antonio Chile to proceed to the loading Port of Caleta Patillos.

18. Before the M.V. ONEGO PASSAT proceeded to the Port of Caleta Patillos, the Defendant OCEAN BULK cancelled and repudiated the Charter Party on August 25, 2009.

19. According to the Defendant OCEAN BULK, it was advised by the Charterer's intended loading terminal that the facility was not accessible for the M/V ONEGO PASSAT, nor would the M/V ONEGO PASSAT be permitted to load the Defendant's cargo at Caleta Patillos because: (1) the vessel's cranes were situated on the vessel's port side, which would prevent the vessel from safely berthing at Caleta Patillos, because vessels were only permitted to berth port side to; and, (2) the height of the vessel's crane masts exceeded the maximum height permitted by the Charterer's terminal, which would prevent the vessel from berthing safely.

20. The Defendant OCEAN BULK advised the Plaintiff ONEGO SHIPPING that Defendant was attempting to make arrangements to ship the cargo from an alternative terminal in Chile, but it was unable to do so.

21. As a consequence of the Defendant's failure to provide an accessible and safe port & berth for the M/V ONEGO PASSAT to load the Defendant's cargo, the Defendant OCEAN BULK did not load the cargo of rock salt on board the M.V. ONEGO PASSAT.

22. By reason of the circumstances referred to herein at ¶s 16 through 21, the Defendant OCEAN BULK breached its obligations under the Charter Party because Defendant OCEAN BULK: a) failed to provide the M/V ONEGO PASSAT with a safe and accessible berth to load the intended cargo; b) failed to ship the cargo on board the vessel as it was required to under the terms of the contract; and, c) failed to pay the freight for the use of the M/V ONEGO PASSAT.

## THE DAMAGES FOR THE BREACHES OF THE MARITIME CONTRACT:

23. The breaches of the maritime contract by the Defendant OCEAN BULK were the proximate cause of damages that were incurred by Plaintiff ONEGO SHIPPING by way of loss of income because of freight not paid by Defendant OCEAN BULK in the principal amount of \$161,836.11.

24. In circumstances similar to this case, the measure of damages is the net amount that would have been earned by the vessel under the charter sued on, less the net amount earned, or which might with reasonable diligence have been earned, by the vessel during the time required for the performance of the voyage named in such contract of charter. LeBlond v. McNear, 104 F. 826, 830-31 (N.D. Cal. 1990), *aff'd*, 123 F. 384 (9<sup>th</sup> Cir. 1993), and the approach usually applied is to calculate a daily rate of return under the cancelled charter, compare it with the rate of return actually earned and multiply the difference by the number of days the cancelled charter would have taken. *See*, VOYAGE CHARTERS 2<sup>ND</sup> ED at §§ 21.171 to 21.175.

25. Under the Charter Party cancelled by Defendant OCEAN BULK, the daily rate of return is calculated to be \$12,800.00 *See*, Exhibit C, Voyage Calculation for the Charter Party, and consider:  $7,200\text{m/t} \times \$24.00 \text{ per ton} = \$172,800$ , then divided by the 13.5 days it would have taken to perform the contract = \$12,800.00.

26. Because the Charter Party was cancelled by Defendant OCEAN BULK, the Plaintiff ONEGO SHIPPING attempted to mitigate its damages by seeking alternative employment for the M/V ONEGO PASSAT, and Plaintiff ONEGO SHIPPING was able to find a cargo of sugar in the same quantity as the rock salt cargo to carry from Puerto

Quetzal to Puerto Coatzacoalcos, at a higher rate of freight, but which required a much longer voyage of 36.2 days.

27. The daily rate of return under the mitigating sugar charter is only \$812.14. *See*, Exhibit D, Voyage Calculation for sugar cargo, and consider 7,200m/t of sugar x \$44.00 per ton = \$316,000, which is then divided by the 36.2 days that it takes to perform the voyage to Puerto Coatzacoalcos and discharge the sugar cargo.

28. The difference on the daily rate of return between the Charter Party that was cancelled and the Charter Party that was performed in mitigation is a loss of \$11,987.86 per day.

29. In accordance with the rule of LeBlond v. McNear, the difference between the daily rates of return multiplied by the number of days for the cancelled charter (\$11,987.86 x 13.5) results in the principal claim for damages in the amount of \$161,836.11.

PLAINTIFF IS INITIATING ARBITRATION  
PROCEEDINGS AGAINST DEFENDANT OCEAN BULK IN LONDON

30. In accordance with the terms and conditions of the Charter Party contract, plaintiff ONEGO SHIPPING and defendant OCEAN BULK agreed to resolve any disputes arising under the Charter Party by arbitration in London with English law to apply. *See*, Exhibit A.

31. In accordance with the agreement to arbitrate any disputes arising under the Charter Party, plaintiff ONEGO SHIPPING is, or is preparing to, initiate arbitral proceedings against defendant OCEAN BULK in London to recover its damages for the breach of the Charter Party.

32. The Plaintiff ONEGO SHIPPING is, however, seeking to obtain security for its claim against the Defendant OCEAN BULK before initiating the arbitration proceedings so that it will have a meaningful and realistic opportunity to recover its damages before it incurs the costs to pursue the claim through arbitration in London.

**THE DAMAGES SOUGHT  
AS SECURITY FOR THE BREACH OF THE MARITIME CONTRACT**

33. Under English law, including but not limited to § 63 of the English Arbitration Act of 1996, the London Maritime Arbitration Association's rules, and/or the international arbitration act of London, costs, including solicitor's fees, arbitrator's fees, disbursements and interest are recoverable damages in arbitration and such damages are routinely awarded to the prevailing party in London arbitration held pursuant to English law.

34. As best as can now be estimated, Plaintiff ONEGO SHIPPING expects to recover the following amounts in London arbitration from Defendant OCEAN BULK:

A.	Principal claim	\$ 161,836.11
B.	Estimated interest on claims: 3 years at 7.5%, compounded quarterly	\$ 40,413.13
C.	Estimated London solicitor's fees:	\$ 50,000.00
D.	Estimated arbitration costs/expenses:	\$ 20,000.00
<b>Total Claim:</b>		<b>\$ 272,249.24</b>

**PRAYER FOR RELIEF**

35. Notwithstanding the fact that the liability of defendant OCEAN BULK for the alleged breach of Charter Party, as set forth herein, is subject to determination by arbitration in London, there are now, or will be during the pendency of this action, certain



assets, accounts, freights, monies, charter hire, credits, effects, payments for goods or services, bills of lading, cargo and the like belonging to or claimed by the Defendant within this District and held by various parties, as garnishees.

36. Plaintiff ONEGO SHIPPING has sufficient reason to believe that defendant OCEAN BULK's tangible or intangible personal property or other assets, *to wit*: bank accounts; payments of freight and/or hire in U.S. dollars to other vessel Owners from the Defendant and payments of U.S. dollars to the Defendant from third party Owners of cargo, vendors and/or suppliers; and/or Clearing House Interbank Payment System (CHIPS) credits; and/or operational funds being transferred through intermediary banks in the for of electronic payment transfers (i.e. "EFT"s) are located in this District in the possession of several garnishees and said garnishees are enumerated in the proposed Process of Maritime Attachment and Garnishment.

37. The Plaintiff ONEGO SHIPPING states as grounds for the statements set forth in ¶s 35 & 36 herein that Defendant OCEAN BULK has previously made payments to others, including the Owner of the M.V. CLIPPER STAMFORD, in U.S. dollars by electronic fund transfer which were processed by intermediary banks in New York and, furthermore, Defendant OCEAN BULK continues to trade in U.S. dollars, as is evidenced by the payment terms of the Charter Party at issue in this case, such that the Defendant OCEAN BULK is making or receiving payments in U.S. dollars on a regular basis, all of which are processed by intermediary banks located in this district.

38. As set forth in the accompanying Declaration of Owen F. Duffy, Defendant OCEAN BULK cannot be found within this District within the meaning of

Rule B of the Supplemental Rules for Admiralty or Maritime Claims of the Federal Rules of Civil Procedure. *See*, Exhibit E, attached hereto.

39. Because this Verified Complaint sets forth an *in personam* maritime claim against Defendant OCEAN BULK, because Defendant OCEAN BULK cannot be found within this District within the meaning of Rule B of the Supplemental Rules for Admiralty or Maritime Claims of the Federal Rules of Civil Procedure, because the Plaintiff has reason to believe that the property of the Defendant may be found in this district and because there is no statutory or maritime bar to an attachment, the requirements for the issuance of Rule B Process of Maritime Attachment and Garnishment are met.

40. The Plaintiff seeks the issuance of process of maritime attachment so that it may obtain security for its claims against defendant OCEAN BULK and/or *quasi in rem* jurisdiction over the property of the Defendant so that an eventual arbitration award and/or judgment confirming the arbitration award can be satisfied.

WHEREFORE, Plaintiff prays as follows:

A. That the defendant OCEAN BULK be summoned to appear and answer this Verified Complaint;

B. That defendant OCEAN BULK not being found within this District, as set forth in the Declaration of Owen F. Duffy, then all of its tangible and intangible property, including assets, accounts, freights, monies, charter hire, credits, effects, payment for goods or services, bills of lading, cargo, raw materials and the like belonging to or claimed by the Defendant, within this District up to the amount sued for herein be

attached pursuant to Supplemental Rule B and restrained by the garnishees of the Defendant to pay the Plaintiff's damages;


C. That this Court retain jurisdiction over this matter through the entry of an arbitration award by an arbitration tribunal in London and/or, if necessary, a judgment from this Court confirming the award of the London arbitration tribunal so that judgment may be entered in favor of plaintiff Onego Shipping for the amount of its claim with costs, *i.e.* **\$272,249.24**, and that a judgment of condemnation and sale be entered against the property restrained and attached herein in the amount of Plaintiff's claim, plus costs to be paid out of the proceeds thereof; and

D. That Plaintiff has such other and further relief as the Court may determine to be just and proper under the circumstances.

Dated: Port Washington, New York  
October 8, 2009

CHALOS, O'CONNOR & DUFFY, LLP  
Attorneys for Plaintiff,  
ONEGO SHIPPING & CHARTERING BV

By: \_\_\_\_\_

  
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# EXHIBIT A

RAIMOND - APS / TURID

Good aft Gents

For sake of good order - appreciate yr confirmation that in accordance  
with negs - tks vm

Re: Onego Passat / Acct OBC

Pleased to recap as fixed clean:

'Onego Passat' cp dtd 17.08.09

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MV ONEGO PASSAT

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TYPE OF VSL          : BOX SINGLEDECK OPENHATCH
CLASS                : CHINESE REGISTER
YEAR BUILT           : 2007
FLAG                 : CYPRUS
P & I                : STEAMSHIP UK
GRT                  : 5652
NRT                  : 2687
DEADWEIGHT           : 7708.7
LOA                  : 117.00 M
BREADTH MOULDED      : 19.70 M
DEPTH MOULDED        : 8.50 M
SUMMER DRAUGHT       : 6.60 M
TYPE OF HATCHES      : PONTOON
NUMBER OF HOLDS/HATCHES : 3 / 3
BOWTHRUSTER         : YES
GEAR                  : 2 X 40 MT
CUBIC CAPACITY       : abt 9541 CBM / 336937 CBFT
ELECTRICAL VENTILATED : YES + FERROSILICON FITTED
ICE CLASS            : SWEDISH/FINNISH 1B
  
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HOLD 1: 19.50 X 15.00 X 8.7 M / HATCH 19.50 X 15.00 HOLD 2: 31.85 X  
15.00 X 8.7 M / HATCH 31.85 X 15.00 HOLD 3: 25.35 X 15.00 X 8.7 M /  
HATCH 25.35 X 15.00

ALL ABOVE ARE GIVEN IN GOOD FAITH BUT NOT GUARANTEED

For:

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- Acct: OBC
- 7200mt rock salt in bulk
- intended Stowage Plan:
Hold 1 = 1,700 MT
Hold 2 = 3,300 Mt
Hold 3 = 2,200 Mt
=====
Total      7,200 MT
- Load: caleta patillos , 1 spb aaaa
- Disch: balboa , 1 spb aaaa
- Laycan: 7/17 Sept 2009
- Load: 24 consec hrs shinc
- Disch: 5000 mts pwwd of 24 consec hrs shinc
- Frt: USD 24.00 pmt fiost
  
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- Dem usd 6,000 pdpr/hd bends
- NOR to be presented 09.00 to 17.00 Monday to Sunday. At load/disch ports time to count 12 hours after nor tendered. At load and at discharge prior time used to count as laytime.
- Lime washing is required and tb for ows time + expenses
- Charts agents bends:

At Load:

Saam s.a. / headoffice  
blanco 895 - valparaiso / chile  
line managers dept.  
email : linemanager@saamsa.com  
ph 56-32-2201108 / 2201102  
fx 56-32-2201701  
web : [www.saamsa.com](http://www.saamsa.com)

pic1 idamarie mahn  
mobile 56-9-89015371  
email : imahn@saam.cl

pic2 marcela coronel  
mobile 56-9-89015373  
email : mcoronel@saam.cl

At Disch:

c. fernie & co.  
email: fernie@cfernien.com  
tel.: (507) 211 9488  
contacto: gian carlo calvosa

- G/A, arbitration in London, English law to apply
- 5.00 pct tll here incl 2.5 adc
- Otherwise 'clipper stamford' cp dtd 23.04.08 logically amended as per main terms and following:

Clause 22.1

Please add: in case chrtrs require freight prepaid bs/l then Bs/L are not to be released until owners written confirmation that freight is received in owners bank acct.

banking details are as follows:

Rabobank  
Voorne-Putten Rozenburg  
Account 1266.58.463  
IBAN NL82RABO0126658463  
SWIFT RABONL2U

corresponding bank in USA  
JP Morgan Chase Bank N.A.  
swiftcode : CHASUS 33

Beneficiary: Onego Shipping & Chartering  
VAT no: NL.8101.09.700.B.01

Clause 23.7: Please add the black line:  
Vessel shall arrive at loading port with cargo holds clean, dry, free of cargo residue and in all respect ready to receive cargo subject to Charterers' inspection and approval. If holds are rejected, laytime not to count from the moment of rejection until vessel is passed/holds accepted.

End recap

Brgds/

# EXHIBIT B



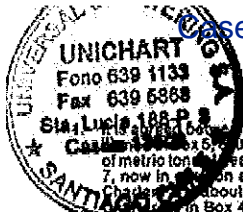
ORIGINAL



<b>UNIVERSAL CHARTERING S.A.</b> <b>Santiago, Chile</b>		<b>RECOMMENDED</b> <b>THE BALTIC AND INTERNATIONAL MARITIME COUNCIL</b> <b>UNIFORM GENERAL CHARTER (AS REVISED 1922, 1976 and 1994)</b> <b>(To be used for trades for which no specially approved form is in force)</b> <b>CODE NAME: "GENCON"</b>	
<b>Disponent</b>		<b>2. Place and date</b> <b>Santiago (Chile), 23rd April 2008</b>	
<b>3. Owners/Place of business (Cl. 1)</b> <b>CLIPPER BULK (SINGAPORE) PTE. LTD.</b>		<b>4. Charterers/Place of business (Cl. 1)</b> <b>OCEAN BULK CARRIERS CORP. PANAMA</b> <b>C/O FRUTAMAR INTERNACIONAL LTDA.</b> <b>BLANCO 1663, OF. 1601</b> <b>Valparaiso, Chile</b>	
<b>5. Vessel's name (Cl. 1)</b> <b>M.V. "CLIPPER STAMFORD" (See Clause 18.1)</b>		<b>6. GT/NT (Cl. 1)</b> <b>---</b>	
<b>7. DWT all told on summer load line in metric tons (abt.) (Cl. 1)</b> <b>---</b>		<b>8. Present position (Cl. 1)</b> <b>Trading</b>	
<b>9. Expected ready to load (abt.) (Cl. 1)</b> <b>9th May 2008</b>		<b>11. Discharging port or place (Cl. 1)</b> <b>(See Clause 21)</b>	
<b>10. Loading port or place (Cl. 1)</b> <b>one (1) safe berth one (1) safe port always</b> <b>accessible CALETA PATILLOS, where Charterers</b> <b>guarantee minimum 32' SW</b>		<b>12. Cargo (also state quantity and margin in Owners' option, if agreed; if full and complete cargo not agreed state "part cargo" (Cl. 1))</b> <b>one (1) shipment of maximum 20.000 metric ton 10% less in Owners' option BULK ROCKSALT</b> <b>SF about 31' WOG</b>	
<b>13. Freight rate (also state whether freight prepaid or payable on delivery) (Cl. 4)</b> <b>(See Clause 22)</b>		<b>14. Freight payment (state currency and method of payment; also beneficiary and bank account) (Cl. 4)</b> <b>(See Clause 22.1)</b>	
<b>15. State if vessel's cargo handling gear shall not be used (Cl. 5)</b>		<b>16. Laytime (if separate laytime for load and disch. is agreed, fill in a) and b); if total laytime for load and disch., fill in c) only) (Cl. 6)</b>	
<b>17. Shippers/Place of business (Cl. 6)</b>		<b>(a) Laytime for loading</b> <b>25.000 MTS PER WWD SHINC</b>	
<b>18. Agents (loading) (Cl. 6)</b>		<b>(b) Laytime for discharging</b> <b>5.000 MTS PER WWD SHINC BALBOA</b>	
<b>19. Agents (discharging) (Cl. 6)</b>		<b>4.000 MTS PER WWD SHINC CARUGENA</b> <b>(c) Total laytime for loading and discharging</b>	
<b>20. Demurrage rate and manner payable (loading and discharging) (Cl. 7)</b> <b>US\$ 23,500 PER DAY HALF DESPATCH LAYTIME</b> <b>SAVED BOTH ENDS</b>		<b>21. Cancelling date (Cl. 9)</b> <b>25th May 2008</b>	
<b>23. Freight Tax (state if for the Owners' account (Cl. 13 (c)))</b> <b>(See Clause 26)</b>		<b>22. General Average to be adjusted at (Cl. 12)</b>	
<b>25. Law and Arbitration (state 19 (a), 19 (b) or 19 (c) of Cl. 19; if 19 (b) agreed also state Place of Arbitration) (if not filled in 19 (a) shall apply) (Cl. 19)</b> <b>(As per Clause 33)</b>		<b>24. Brokerage commission and to whom payable (Cl. 15)</b> <b>1.25% to UNIVERSAL CHARTERING S.A.</b> <b>2.5% Address Commission</b>	
<b>(a) State maximum amount for small claims/shortened arbitration (Cl. 19)</b>		<b>26. Additional clauses covering special provisions, if agreed</b> <b>Clauses 18 to</b> <b>39 to be considered as fully incorporated into this</b> <b>Charter Party.</b>	

It is mutually agreed that this Contract shall be performed subject to the conditions contained in this Charter Party which shall include Part I as well as Part II. In the event of a conflict of conditions, the provisions of Part I shall prevail over those of Part II to the extent of such conflict.

Signature (Owners)	Signature (Charterers)
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PART II

"Gencon" Charter (As Revised 1922, 1976 and 1994)

ORIGINAL

The party mentioned in Box 3 as the Owners of the Vessel shall, as soon as her prior commitments have been completed, proceed to the loading port(s) or place(s) stated in Box 10 or so near thereto as she may safely get and lie always afloat, and there load a full and complete cargo (if shipment of deck cargo agreed same to be at the Charterers' risk and responsibility) as stated in Box 12, which the Charterers bind themselves to ship, and being so loaded the Vessel shall proceed to the discharging port(s) or place(s) stated in Box 11 as ordered on signing Bills of Lading, or so near thereto as she may safely get and lie always afloat, and there deliver the cargo.

2. Owners' Responsibility Clause

The Owners are to be responsible for loss of or damage to the goods or for delay in delivery of the goods only in case the loss, damage or delay has been caused by personal want of due diligence on the part of the Owners or their Manager to make the Vessel in all respects seaworthy and to secure that she is properly manned, equipped and supplied, or by the personal act or default of the Owners or their Manager.

And the Owners are not responsible for loss, damage or delay arising from any other cause whatsoever, even from the neglect or default of the Master or crew or some other person employed by the Owners on board or ashore for whose acts they would, but for this Clause, be responsible, or from unseaworthiness of the Vessel on loading or commencement of the voyage or at any time whatsoever.

3. Deviation Clause

The Vessel has liberty to call at any port or ports in any order, for any purpose, to call without pilots, to tow and/or assist Vessels in all situations, and also to deviate for the purpose of saving life and/or property.

4. Payment of Freight (See Clause 22.1)

(a) The freight at the rate stated in Box 13 shall be paid in cash calculated on the laden quantity of cargo.

(b) Prepaid. If according to Box 13 freight is to be paid on shipment, it shall be deemed earned and non-returnable, Vessel and/or cargo lost or not lost.

Neither the Owners nor their agents shall be required to sign or endorse bills of lading showing freight prepaid unless the freight due to the Owners has actually been paid.

(c) On delivery. If according to Box 13 freight, or part thereof, is payable at destination it shall not be deemed earned until the cargo is thus delivered. Notwithstanding the provisions under (a), if freight or part thereof is payable on delivery of the cargo the Charterers shall have the option of paying the freight on delivered weight/quantity provided such option is declared before breaking bulk and the weight/quantity can be ascertained by official weighing machine, joint draft survey or tally.

Cash for Vessel's ordinary disbursements at the port of loading to be advanced by the Charterers. If required, at highest current rate of exchange, subject to two (2) per cent to cover insurance and other expenses.

5. Loading/Discharging

(a) Costs/Risks

The cargo shall be brought into the holds, loaded, stowed and/or trimmed, lashed, lashed and/or secured and taken from the holds and discharged by the Charterers, free of any risk, liability and expense whatsoever to the Owners. The Charterers shall provide and lay all dunnage material as required for the proper stowage and protection of the cargo on board, the Owners allowing the use of all dunnage available on board. The Charterers shall be responsible for and pay the cost of removing their dunnage after discharge of the cargo under this Charter Party and time to count until dunnage has been removed.

(b) Cargo Handling Gear

Unless the Vessel is gearless or unless it has been agreed between the parties that the Vessel's gear shall not be used and stated as such in Box 15, the Owners shall throughout the duration of loading/discharging give free use of the Vessel's cargo handling gear and of sufficient motive power to operate all such cargo handling gear. All such equipment to be in good working order. Unless caused by negligence of the stevedores, time lost by breakdown of the Vessel's cargo handling gear or motive power - pro rata the total number of cranes/winches required at that time for the loading/discharging of cargo under this Charter Party - shall not count as laytime or time on demurrage.

On request the Owners shall provide free of charge cranes/winches from the crew to operate the Vessel's cargo handling gear, unless local regulations prohibit this, in which latter event shore labourers shall be for the account of the Charterers. Cranes/winches shall be under the Charterers' risk and responsibility and as stevedores to be deemed as their servants but shall always work under the supervision of the Master.

(c) Stevedore Damage

(See Clause 28)

The Charterers shall be responsible for damage (beyond ordinary wear and tear) to any part of the Vessel caused by Stevedores. Such damage shall be notified as soon as reasonably possible by the Master to the Charterers or their agents and to their Stevedores, failing which the Charterers shall not be held responsible. The Master shall endeavour to obtain the Stevedores' written acknowledgement of liability.

The Charterers are obliged to repair any stevedore damage prior to completion of the voyage, but must repair stevedore damage affecting the Vessel's seaworthiness or class before the Vessel sails from the port where such damage was caused or found. All additional expenses incurred shall be for the account of the Charterers and any time lost shall be for the account of and shall be paid to the Owners by the Charterers at the demurrage rate.

(See Clause 23)

6. Laytime

(a) Separate laytime for loading and discharging

The cargo shall be loaded within the number of running days/hours as indicated in Box 16, weather permitting, Sundays and holidays excepted, unless used, in which event time used shall count.

The cargo shall be discharged within the number of running days/hours as indicated in Box 16, weather permitting, Sundays and holidays excepted, unless used, in which event time used shall count.

(b) Total laytime for loading and discharging

The cargo shall be loaded and discharged within the number of total running days/hours as indicated in Box 16, weather permitting, Sundays and holidays excepted, unless used, in which event time used shall count.

(c) Commencement of laytime (loading and discharging)

Laytime for loading and discharging shall commence at 13.00 hours, if notice of readiness is given up to and including 12.00 hours, and at 08.00 hours next working day if notice given during office hours after 12.00 hours. Notice of

readiness at loading port to be given to the Shippers named in Box 17 or if not named, to the Charterers or their agents named in Box 18. Notice of readiness at the discharging port to be given to the Receivers or, if not known, to the Charterers or their agents named in Box 19.

If the loading/discharging berth is not available on the Vessel's arrival at or off the port of loading/discharging, the Vessel shall be entitled to give notice of readiness within ordinary office hours on arrival there, whether in free pratique or not, whether customs cleared or not. Laytime or time on demurrage shall then count as if she were in berth and in all respects ready for loading/discharging provided that the Master warrants that she is in fact ready in all respects. Time used in moving from the place of waiting to the loading/discharging berth shall not count as laytime.

If, after inspection, the Vessel is found not to be ready in all respects to load/dischARGE time lost after the discovery thereof until the Vessel is again ready to load/dischARGE shall not count as laytime.

Time used before commencement of laytime shall count.

\* Indicate alternative (a) or (b) as agreed, in Box 16.

7. Demurrage (See Clause 23)

Demurrage at the loading and discharging port is payable by the Charterers at the rate stated in Box 20 in the manner stated in Box 20 per day or pro rata for any part of a day. Demurrage shall fall due day by day and shall be payable upon receipt of the Owners' invoice.

In the event the demurrage is not paid in accordance with the above, the Owners shall give the Charterers 96 running hours written notice to rectify the failure. If the demurrage is not paid at the expiration of this time limit and if the vessel is in or at the loading port, the Owners are entitled at any time to terminate the Charter Party and claim damages for any losses caused thereby.

8. Lien Clause

The Owners shall have a lien on the cargo and on all sub-freights payable in respect of the cargo, for freight, deadfreight, demurrage, claims for damages and for all other amounts due under this Charter Party including costs of recovering same.

9. Cancelling Clause

(a) Should the Vessel not be ready to load (whether in berth or not) on the cancelling date indicated in Box 21, the Charterers shall have the option of cancelling this Charter Party.

(b) Should the Owners anticipate that, despite the exercise of due diligence, the Vessel will not be ready to load by the cancelling date, they shall notify the Charterers thereof without delay stating the expected date of the Vessel's readiness to load and asking whether the Charterers will exercise their option of cancelling the Charter Party, or agree to a new cancelling date.

Such option must be declared by the Charterers within 48 running hours after the receipt of the Owners' notice. If the Charterers do not exercise their option of cancelling, then this Charter Party shall be deemed to be amended such that the seventh day after the new readiness date stated in the Owners' notification to the Charterers shall be the new cancelling date.

The provisions of sub-clause (b) of this Clause shall operate only once, and in case of the Vessel's further delay, the Charterers shall have the option of cancelling the Charter Party as per sub-clause (a) of this Clause.

10. Bills of Lading

Bills of Lading shall be presented and signed by the Master as per the "Congenbill" Bill of Lading form, Edition 1994, without prejudice to this Charter Party, or by the Owners' agents provided written authority has been given by the Owners to the agents, a copy of which is to be furnished to the Charterers. The Charterers shall indemnify the Owners against all consequences or liabilities that may arise from the signing of bills of lading as presented to the extent that the terms or contents of such bills of lading impose or result in the imposition of more onerous liabilities upon the Owners than those assumed by the Owners under this Charter Party.

11. Both-to-Blame Collision Clause

If the Vessel comes into collision with another vessel as a result of the negligence of the other vessel and any act, neglect or default of the Master, Mariner, Pilot or the servants of the Owners in the navigation or in the management of the Vessel, the owners of the cargo carried hereunder will indemnify the Owners against all loss or liability to the other or non-carrying vessel or her owners in so far as such loss or liability represents loss of, or damage to, or any claim whatsoever of the owners of said cargo, paid or payable by the other or non-carrying vessel or her owners to the owners of said cargo and set-off, recouped or recovered by the other or non-carrying vessel or her owners as part of their claim against the carrying Vessel or the Owners. The foregoing provisions shall also apply where the owners, operators or those in charge of any vessel or vessels or objects other than, or in addition to, the colliding vessels or objects are at fault in respect of a collision or contact.

12. General Average and New Jason Clause

General Average shall be adjusted in London unless otherwise agreed in Box 22 according to York-Antwerp Rules 1994 and any subsequent modification thereof. Proprietors of cargo to pay the cargo's share in the general expenses even if same have been necessitated through neglect or default of the Owners' servants (see Clause 2).

If General Average is to be adjusted in accordance with the law and practice of the United States of America, the following Clause shall apply: "In the event of accident, danger, damage or disaster before or after the commencement of the voyage, resulting from any cause whatsoever, whether due to negligence or not, for which, or for the consequence of which, the Owners are not responsible, by statute, contract or otherwise, the cargo shippers, consignees or the owners of the cargo shall contribute with the Owners in General Average to the payment of any sacrifices, losses or expenses of a General Average nature that may be made or incurred and shall pay salvage and special charges incurred in respect of the cargo. If a salving vessel is owned or operated by the Owners, salvage shall be paid for as fully as if the said salving vessel or vessels belonged to strangers. Such deposit as the Owners, or their agents, may deem sufficient to cover the estimated contribution of the goods and any salvage and special charges thereon shall, if required, be made by the cargo shippers, consignees or owners of the goods to the Owners before delivery."

(See Clause 26)

13. Taxes and Dues Clause

(a) On Vessel - The Owners shall pay all dues, charges and taxes customarily levied on the Vessel, howsoever the amount thereof may be assessed.

(b) On cargo - The Charterers shall pay all dues, charges, duties and taxes customarily levied on the cargo, howsoever the amount thereof may be assessed.

(c) On freight - Unless otherwise agreed in Box 23, taxes levied on the freight shall be for the Charterers' account.



## PART II

## "Gencon" Charter (As Revised 1922, 1976 and 1994)

14. Agency (See Clause 20.1)	207	(5) The Vessel shall have liberty:-	314
In every case the Owners shall appoint their own Agent both at the port of loading and the port of discharge.	208	(a) to comply with all orders, directions, recommendations or advice as to	315
	209	departure, arrival, routes, sailing in convoy, ports of call, stoppages,	316
		destinations, discharge of cargo, delivery or in any way whatsoever which	317
15. Brokerage	210	are given by the Government of the Nation under whose flag the Vessel	318
A brokerage commission at the rate stated in Box 24 on the freight, dead-freight	211	sails, or other Government to whose laws the Owners are subject, or any	319
and demurrage earned is due to the party mentioned in Box 24.	212	Government which so requires, or any body or group acting with the	320
In case of non-execution 1/3 of the brokerage on the estimated amount of	213	power to compel compliance with their orders or directions;	321
freight to be paid by the party responsible for such non-execution to the	214	(b) to comply with the orders, directions or recommendations of any war	322
Brokers as indemnity for the latter's expenses and work. In case of more	215	risks underwriters who have the authority to give the same under the terms	323
voyages the amount of indemnity to be agreed.	216	of the war risks insurance;	324
		(c) to comply with the terms of any resolution of the Security Council of the	325
18. General Strike Clause	217	United Nations, any directives of the European Community, the effective	326
(a) If there is a strike or lock-out affecting or preventing the actual loading of the	218	orders of any other Supranational body which has the right to issue and	327
cargo, or any part of it, when the Vessel is ready to proceed from her last port or	219	give the same, and with national laws aimed at enforcing the same to which	328
at any time during the voyage to the port or ports of loading or after her arrival	220	the Owners are subject, and to obey the orders and directions of those who	329
there, the Master or the Owners may ask the Charterers to declare, that they	221	are charged with their enforcement;	330
agree to reckon the laydays as if there were no strike or lock-out. Unless the	222	(d) to discharge at any other port any cargo or part thereof which may	331
Charterers have given such declaration in writing (by telegram, if necessary)	223	render the Vessel liable to confiscation as a contraband carrier;	332
within 24 hours, the Owners shall have the option of cancelling this Charter	224	(e) to call at any other port to change the crew or any part thereof or other	333
Party. If part cargo has already been loaded, the Owners must proceed with	225	persons on board the Vessel when there is reason to believe that they may	334
same, (freight payable on loaded quantity only) having liberty to complete with	226	be subject to internment, imprisonment or other sanctions;	335
other cargo on the way for their own account.	227	(f) where cargo has not been loaded or has been discharged by the	336
(b) If there is a strike or lock-out affecting or preventing the actual discharging	228	Owners under any provisions of this Clause, to load other cargo for the	337
of the cargo on or after the Vessel's arrival at or off port of discharge and same	229	Owners' own benefit and carry it to any other port or ports whatsoever,	338
has not been settled within 48 hours, the Charterers shall have the option of	230	whether backwards or forwards or in a contrary direction to the ordinary or	339
keeping the Vessel waiting until such strike or lock-out is at an end against	231	customary route.	340
paying half demurrage after expiration of the time provided for discharging	232	(6) If in compliance with any of the provisions of sub-clauses (2) to (5) of this	341
until the strike or lock-out terminates and thereafter full demurrage shall be	233	Clause anything is done or not done, such shall not be deemed to be a	342
payable until the completion of discharging, or of ordering the Vessel to a safe	234	deviation, but shall be considered as due fulfilment of the Contract of	343
port where she can safely discharge without risk of being detained by strike or	235	Charriage.	344
lock-out. Such orders to be given within 48 hours after the Master or the	236		
Owners have given notice to the Charterers of the strike or lock-out affecting	237	19. General Ice Clause	345
the discharge. On delivery of the cargo at such port, all conditions of this	238	Port of loading	346
Charter Party and of the Bill of Lading shall apply and the Vessel shall receive	239	(a) In the event of the loading port being inaccessible by reason of ice when the	347
the same freight as if she had discharged at the original port of destination,	240	Vessel is ready to proceed from her last port or at any time during the voyage or	348
except that if the distance to the substituted port exceeds 100 nautical miles,	241	on the Vessel's arrival or in case frost sets in after the Vessel's arrival, the	349
the freight on the cargo delivered at the substituted port to be increased in	242	Master for fear of being frozen in is at liberty to leave without cargo, and this	350
proportion.	243	Charter Party shall be null and void.	351
(c) Except for the obligations described above, neither the Charterers nor the	244	(b) If during loading the Master, for fear of the Vessel being frozen in, deems it	352
Owners shall be responsible for the consequences of any strikes or lock-outs	245	advisable to leave, he has liberty to do so with what cargo he has on board and	353
preventing or affecting the actual loading or discharging of the cargo.	246	to proceed to any other port or ports with option of completing cargo for the	354
		Owners' benefit for any port or ports including port of discharge. Any part	355
17. War Risks ("Voywar 1993")	247	cargo loaded under this Charter Party to be forwarded to destination at the	356
(1) For the purpose of this Clause, the words:	248	Vessel's expense but against payment of freight, provided that no extra	357
(a) The "Owners" shall include the shipowners, bareboat charterers,	249	expenses be thereby caused to the Charterers, freight being paid on quantity	358
disponent owners, managers or other operators who are charged with the	250	delivered (in proportion if lumpsum), all other conditions as per this Charter	359
management of the Vessel, and the Master; and	251	Party.	360
(b) "War Risks" shall include any war (whether actual or threatened), act of	252	(c) In case of more than one loading port, and if one or more of the ports are	361
war, civil war, hostilities, revolution, rebellion, civil commotion, warlike	253	closed by ice, the Master or the Owners to be at liberty either to load the part	362
operations, the laying of mines (whether actual or reported), acts of piracy,	254	cargo at the open port and fill up elsewhere for their own account as under	363
acts of terrorism, acts of hostility or malicious damage, blockades	255	section (b) or to declare the Charter Party null and void unless the Charterers	364
(whether imposed against all Vessels or imposed selectively against	256	agree to load full cargo at the open port.	365
Vessels of certain flags or ownership or against certain cargoes or crews	257	Port of discharge	366
or otherwise howsoever), by any person, body, territorial or political group,	258	(a) Should ice prevent the Vessel from reaching port of discharge the	367
or the Government of any state whatsoever, which, in the reasonable	259	Charterers shall have the option of keeping the Vessel waiting until the re-	368
judgement of the Master and/or the Owners, may be dangerous or	260	opening of navigation and paying demurrage or of ordering the Vessel to a safe	369
likely to be or to become dangerous to the Vessel, her cargo, crew or other	261	and immediately accessible port where she can safely discharge without risk of	370
persons on board the Vessel.	262	detention by ice. Such orders to be given within 48 hours after the Master or the	371
(2) If at any time before the Vessel commences loading, it appears that, in the	263	Owners have given notice to the Charterers of the impossibility of reaching port	372
reasonable judgement of the Master and/or the Owners, performance of the	264	of destination.	373
Contract of Carriage, or any part of it, may expose, or is likely to expose,	265	(b) If during discharging the Master for fear of the Vessel being frozen in deems	374
the Vessel, her cargo, crew or other persons on board the Vessel to War	266	it advisable to leave, he has liberty to do so with what cargo he has on board and	375
Risks, the Owners may give notice to the Charterers cancelling this	267	to proceed to the nearest accessible port where she can safely discharge.	376
Contract of Carriage, or may refuse to perform such part of it as may	268	(c) On delivery of the cargo at such port, all conditions of the Bill of Lading shall	377
expose, or may be likely to expose, the Vessel, her cargo, crew or other	269	apply and the Vessel shall receive the same freight as if she had discharged at	378
persons on board the Vessel to War Risks; provided always that if this	270	the original port of destination, except that if the distance of the substituted port	379
Contract of Carriage provides that loading or discharging is to take place	271	exceeds 100 nautical miles, the freight on the cargo delivered at the substituted	380
within a range of ports, and at the port or ports nominated by the Charterers	272	port to be increased in proportion.	381
the Vessel, her cargo, crew, or other persons on board the Vessel may be	273		
exposed, or may be likely to be exposed, to War Risks, the Owners shall	274	19. Law and Arbitration (See Clause 33)	382
first require the Charterers to nominate any other safe port which lies	275	(a) This Charter Party shall be governed by and construed in accordance with	383
within the range for loading or discharging, and may only cancel this	276	English law and any dispute arising out of this Charter Party shall be referred to	384
Contract of Carriage if the Charterers shall not have nominated such safe	277	arbitration in London in accordance with the Arbitration Act 1950 and 1976 or	385
port or ports within 48 hours of receipt of notice of such requirement.	278	any statutory modification or re-enactment thereof for the time being in force.	386
(3) The Owners shall not be required to continue to load cargo for any voyage,	279	Unless the parties agree upon a sole arbitrator, one arbitrator shall be	387
or to sign Bills of Lading for any port or place, or to proceed or continue on	280	appointed by each party and the arbitrators so appointed shall appoint a third	388
any voyage, or on any part thereof, or to proceed through any canal or	281	arbitrator, the decision of the three-man tribunal thus constituted or any two of	389
waterway, or to proceed to or remain at any port or place whatsoever,	282	them, shall be final. On the receipt by one party of the nomination in writing of	390
where it appears, either after the loading of the cargo commences, or at	283	the other party's arbitrator, that party shall appoint their arbitrator within	391
any stage of the voyage thereafter before the discharge of the cargo is	284	fourteen days, failing which the decision of the single arbitrator appointed shall	392
completed, that, in the reasonable judgement of the Master and/or the	285	be final.	393
Owners, the Vessel, her cargo (or any part thereof), crew or other persons	286	For disputes where the total amount claimed by either party does not exceed	394
on board the Vessel (or any one or more of them) may be, or are likely to be,	287	the amount stated in Box 25** the arbitration shall be conducted in accordance	395
exposed to War Risks. If it should so appear, the Owners may by notice	288	with the Small Claims Procedure of the London Maritime Arbitrators	396
request the Charterers to nominate a safe port for the discharge of the	289	Association.	397
cargo or any part thereof, and if within 48 hours of the receipt of such	290	(b) This Charter Party shall be governed by and construed in accordance with	398
notice, the Charterers shall not have nominated such a port, the Owners	291	Title 9 of the United States Code and the Maritime Law of the United States and	399
may discharge the cargo at any safe port of their choice (including the port	292	should any dispute arise out of this Charter Party, the matter in dispute shall be	400
of loading) in complete fulfilment of the Contract of Carriage. The Owners	293	referred to three persons at New York, one to be appointed by each of the	401
shall be entitled to recover from the Charterers the extra expenses of such	294	parties hereto, and the third by the two so chosen; their decision or that of any	402
discharge and, if the discharge takes place at any port other than the	295	two of them shall be final, and for purpose of enforcing any award, this	403
loading port, to receive the full freight as though the cargo had been	296	agreement may be made a rule of the Court. The proceedings shall be	404
carried to the discharging port and if the extra distance exceeds 100 miles,	297	conducted in accordance with the rules of the Society of Maritime Arbitrators,	405
to additional freight which shall be the same percentage of the freight	298	Inc.	406
contracted for as the percentage which the extra distance represents to	299	For disputes where the total amount claimed by either party does not exceed	407
the distance of the normal and customary route, the Owners having a lien	300	the amount stated in Box 25** the arbitration shall be conducted in accordance	408
on the cargo for such expenses and freight.	301	with the Shortened Arbitration Procedure of the Society of Maritime Arbitrators,	409
(4) If at any stage of the voyage after the loading of the cargo commences, it	302	Inc.	410
appears that, in the reasonable judgement of the Master and/or the	303	(c) Any dispute arising out of this Charter Party shall be referred to arbitration at	411
Owners, the Vessel, her cargo, crew or other persons on board the Vessel	304	the place indicated in Box 25, subject to the procedures applicable there. The	412
may be, or are likely to be, exposed to War Risks on any part of the route	305	laws of the place indicated in Box 25 shall govern this Charter Party.	413
(including any canal or waterway) which is normally and customarily used	306	(d) If Box 25 in Part I is not filled in, sub-clause (a) of this Clause shall apply.	414
in a voyage of the nature contracted for, and there is another longer route	307	(e), (f) and (g) are alternatives; Indicate alternative agreed in Box 25.	415
to the discharging port, the Owners shall give notice to the Charterers that	308	** Where no figure is supplied in Box 25 in Part I, this provision only shall be void but	416
this route will be taken. In this event the Owners shall be entitled, if the total	309	the other provisions of this Clause shall have full force and remain in effect.	417
extra distance exceeds 100 miles, to additional freight which shall be the	310		
same percentage of the freight contracted for as the percentage which the	311		
extra distance represents to the distance of the normal and customary	312		
route.	313		

US\$50,000

# UNICHART

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## Rider Clauses to the M.V. "CLIPPER STAMFORD" Charter Party dated Santiago (Chile) 22<sup>TH</sup> APRIL 2008

### 18. Vessel's Description:

- Vessel to be singledeck, self trimming bulkcarrier, fully P. and I. Covered during whole voyage, maximum, Highest Lloyd's or equivalent
- Vessel must be singledeck, engine aft, dry BC
- Vessel not to have twin hatches and no center line beams or centerline bulkheads and no obstructions or fittings in the holds, including tunnels.
- Owners guarantee that vessel is suitable for complete discharge by grabs.
- Owners guarantee vessel has not traded Cuba or other countries where vessel could be prevented to discharge in the U.S. during the past 6 months.
- The vessel is to keep all gear and specially the cranes or derricks working in good order and suitable for grab discharge at all time. In case of failure or incapacity Charterers privilege to rent shore cranes and to be for Owners' account.
- Vessel must have MacGregor Folding Type Hatch covers.
- Charterers cannot accept Twin Deckers or Universal Gear, cranes or derricks to lift as described and anchors and windlass to be fully functional and operative.

### 18.1 M/V "CLIPPER STAMFORD"

Hong Kong flag, built 1998

Box shaped, double skinned, open hatch conbulker

Abt. 20,730mt deadweight on 9.70 meter SSW

loa./beam 157.90/23.10 meters

4 holds/hatches - hydraulic end folding hatch-covers

3 x 36 metric tonnes electro hydraulic jib cranes

grain/bale 843,333/840,331 cubic feet

GT/NT Int: 14,118/6,124

CO2/AWWF holdladderfitted

abt 15.0kn on abt 25mt IFO 380cst - nil MDO at sea

port idle abt 3.45mt IFO / port working abt 4.60mt IFO

Speed and consumption are given basis max Beaufort 4 and

Douglas Sea state 3.

Vessel has the liberty to use 'MDO' when manouvering in/out of ports or in narrow/shallow waters, starting up/turning off engines and when sailing in bad weather/rough sea

Bunkers supplied to be in accordance with ISO-specifications:

IFO; ISO 8217:2005(e)RMG380 - MDO; ISO 8217:2005 DMB.

No mixing of bunkers allowed.

- All details about -

Additional information (all details about):

- tanktop strength: 20.0mt/M2

deck : 2.5mt/M2

hatchcover : 2.5mt/M2

- 869 TEUS incl 54 reefer containers

# UNICHART

fully equipped with permanent container fittings:

flush container shoes on tanktop and

raised container shoes on deck (no OSHA)

partly equipped with loose container fittings/lashings

container loading is always subject to stability, trim,

strength, stress and visibility

- forced cargo hold ventilation giving

6 airchanges per hour basis empty holds

- cubic breakdown: grain      bale

number 1: 145,485      144,779

2:      290,801      289,918

3:      227,414      226,707

4:      179,633      178,927

total      843,333      840,331

- hatch-sizes (meters):

number 1: 19.20(L) X 8.40-14.04-18.24

2: 25.60(L) X 18.24

3: 19.20(L) X 18.24

4: 19.20(L) X 18.24-15.60-10.92

- hold dimensions (meters - on flat tank top):

	length	width	height
number 1:	27.20	6.24/8.40/14.04/18.24	11.97

2:	33.40	18.24	13.97
----	-------	-------	-------

3:	26.20	18.24	13.97
----	-------	-------	-------

4:	25.40	18.24/15.60/10.92	13.97
----	-------	-------------------	-------

- All cargo holds are completely box/boxed off and double skinned

i.e., the tanktop meets the side of the holds/bulkheads at a 90

degree angle. All bulkheads are flush.

- TPC on SSW: 31.682mt

- Class: ABS +A1 (E), +AMS, +ACCU

- Suez NT: 12,371.83

- Panama NT:12,304.84

- deadweight on winter marks: Abt 20,092

- call sign: VRCB 6

- Inmarsat C telex: 456469310

- Vessel does not comply with SolasXII/5.1 and

MSC.168(79) (heavy cargoes)".

- Owners: Clipper Bulk (Singapore) Pte. Ltd. as disponent owners

- Owners P&I: North of England P&I Association

- VSL SUITABLE FOR GRAB DISCHARGE

AA

Charterers not to use vessel's grabs unless reaching a separate written agreement regarding terms and cost.

# **UNICHART**

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## **19. Cargo and Quantity**

One shipment of maximum 20.000 mt of Bulk Rocksalt stowing about 31' metric ton without guarantee.

Quantity to be declared by Owners/master upon berthing.

Cargo to be distributed evenly and trimmed in all holds/hatches to be able to get a balanced discharge, in as far as master deems stowage safe.

## **20. Notices**

Owners/Master to give Charterers/Receivers 7/5 days and 48/24 hours of vessel arrival at loading and discharge ports.

ETA reports to be given 4/2/1 days at loading port and ETA on sailing loading port followed by 6/4/2/1 days loading port.

### **20.1. Agents**

Owners' Agents at loading and Charterers' agents at Balboa and at Cartagena provided competitive.

## **21. Discharge Port :**

One (1) safe berth one (1) safe port always afloat Balboa (about 10.000 grade A) where Charterers' guarantee minimum 30' SW and Cartagena (balance grade B).

## **22. Freight:**

US\$ 51.00 per metric ton FIO spout trimmed basis 1 loding port to 2 discharging ports.

**22.1.** Freight to be fully payable within 5 banking days after signing/releasing Bill(s) of Lading but always before breaking bulk marked "Freight payable as per Charter Party" discountless and non-returnable vessel and/or cargo lost or not lost. Freight always to be paid prior to breaking bulk at discharge.

Full freight deemed earned as loaded is being loaded onboard, discountless, non-returnable, vessel and or cargo lost or not lost.

Freight is payable net into Owners' bank account as follows:

AMEGY BANK OF TEXAS  
P.O.BOX 27459  
HOUSTON, TEXAS 77227  
USA  
SWIFT CODE : SWBKUS44

# **UNICHART**

ABA No. : 113-011-258

Account No. : 51576445

In Favour of: Bossclip B.V., Rotterdam

Ref : "Clipper Stamford" C/P 23.4.2008

## **22.2. Bills of Lading**

Shippers require 3/3 Original Bill of Lading, 7 copies non-negotiable duly signed and stamped and 2 non-negotiable copies signed and also duly freighted.

Bills of Lading to be claused "Freight payable as per Charter Party dated April 23<sup>rd</sup> 2008.

## **22.3 Cargo Quantity**

Final loaded quantity to be established at loading port by draft survey by an independent surveyor nominated by Charterers or Consignees and cost for their account. Bills of Lading and freight to be in accordance with the draft survey quantity.

Time used for draft survey to count as laytime.

## **23. N.O.R. and Laytime both ends**

Notice of Readiness to be given in writing when the vessel has arrived at the discharging or loading port and is in all respects ready to load or discharge. Notice of readiness to be tendered within office hours from 0900-1700 hours Monday to Sunday. If because of congestion vessel is unable to enter berth/port, then Notice of Readiness to be tendered by telex/e-mail/cable to agents from customary waiting anchorage, whether in free pratique or nor, whether customs cleared or not, (provided pratique and customs clearance not withheld due to vessel's fault). In case arrangements can be made to load or discharge during excepted periods, Captain to allow work to be done, such time used not to count.

At load/discharge ports laytime to commence 12 hours after tendering notice of readiness vessel being ready, and in free pratique.

Prior time used not to count as laytime.

### **23.1 Holidays**

At loading and discharging port although terms are SHINC, time from December 24<sup>th</sup>-12:00 hours to December 26<sup>th</sup> - 08:00 hours and from December 31<sup>st</sup> - 12:00 hours to January 2<sup>nd</sup> - 08:00 hours not to count, even if used.



# **UNICHART**

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## **23.2 Loading port**

At loading port in addition: time from May 1 – 00:00 hours to May 1 – 24:00 hours, time from, and time from September 18 – 00:00 hours to September 19 – 24:00 hours, not to count even if used.

## **23.3 Discharging port**

Deleted

## **23.4 Rain/Snow**

Time worked/used during rain or snow, laytime fully to count, if not worked time not to count.

## **23.5 Deleted**

## **23.6 Opening and closing hatches**

All opening and closing of hatches time not to count as laytime and cost to be for Owners' account unless opening of hatches by vessel's crew is prohibited by local regulations in which case cost of receivers' account.

From Notice of Readiness tendered to discharge completed opening and closing hatches not to count as laytime.

If during discharge Captain decides to partially open the hatch, then discharge rate to be reduced by 50% to compensate the laytime.

## **23.7 Clean holds**

Vessel shall arrive at loading port with cargo holds clean, dry, free of cargo residue and in all respect ready to receive cargo subject to Charterers' inspection and approval. If holds are rejected, laytime not to count until vessel is passed.

High humidity creating excess of condensation in vessel's holds creating excess of condensation in vessel's holds creating temporary stoppage of loading/discharging is considered a weather working delay.

## **23.8 Lime Washing**

Charterers confirm no limewashing will be required.



# **UNICHART**

## **23.9 Machine cleaning**

Upon completion of discharge, Charterers are to be responsible to leave the holds machine clean.

## **23.10 Owners Responsibility**

Owners will be responsible in complying with arrival/sailing conditions in respect of and air draft.

## **24. Load and Discharge rate**

Loading and discharge rates according Clause 16 per weather working day SHINC.

## **24.1 FIOST**

Deleted

## **25. Demurrage/Despatch**

Demurrage, if any, shall be paid by Charterers to Owners at the rate of US\$ 23.500 per day or pro rata for all time used in excess of allowed time, both at load and/or discharge ports. Despatch, if any, shall be paid by Owners to Charterers at the rate of US\$ 11.750 per day or pro-rata for all laytime saved at load/discharge ports.

Laytime is to be non-reversible between discharging ports.

Laytime is to be non-reversible for all load/discharge ports.

## **26. Taxes**

Taxes/dues on vessel for account of Owners.

Taxes/dues on cargo/freight to be for account of Charterers.

## **27. Extra insurance**

Extra insurance, if any on the cargo by reason of vessel's age, flag, classification or ownership to be for Charterers' account.

## **28. Stevedore Damage**

As per Gencon 94 Part II (Lines 77-88)

## **29. Vessel Lights**

Vessel to give free use of light as on board if required for night work.

# **UNICHART**

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## **30. Laytime Exceptions**

Laytime shall be suspended for but not limited to any or all of the following reasons:

- a) If vessel does not have all hatches open and ready to load/unload upon berthing, even if vessel is already on demurrage.
- b) In Case of swell, surf or causes attributable to vessel which prevents normal loading and discharging, unless vessel is already on demurrage.
- c) In case the Master requests that work or repairs be carried out to the vessel during loading and discharging time and this activity interferes with normal loading and discharging, all time so used not to count as laytime or time on demurrage even if vessel is already on demurrage.

Shifting from anchorage to berth (from anchor upto all fast) not to count as laytime.

## **31. Ballasting/Deballasting**

Vessel to be suitable for quick ballasting and deballasting, and her Master to be cooperative in ballasting and deballasting the vessel in order to prevent loading or discharging delays or stoppages.

## **32. Damage to Piers and Structures**

Owners guarantee the vessel is covered in first class P. & I. Club and will maintain coverage throughout the duration of the voyage.

## **33. Deleted**

## **34. Bunker Deviation Clause**

The vessel shall have liberty as part of the contract voyage and at any stage thereof may proceed to any port of ports whatsoever, on the direct and/or customary route or routes between any of the ports of loading or discharge named in this Charter and may there take oil bunkers in sufficient quantity only to complete the respective voyage and in accordance with draft restrictions required at discharging port(s).

## **35. Deleted**

## **36. Confidentiality**

This fixture is strictly private and confidential.

## **37. Deleted**

# ***UNICHART***

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## **38. Cargo documents for discharge ports**

In case the Original Bills of Lading do not arrive in time to the discharge port, Owners to allow the discharge of cargo against presentation of a Letter of Indemnity signed by Charterers according to Owners' PandI Club wording. Time lost due to failure of Charterers to provide the LOI in time to permit Owners to make necessary arrangements to be for Charterers' account.

## **39. Cancellation Clause:**

(a) Should the Vessel not be ready to load (whether in berth or not) on the agreed cancelling date, the Charterers shall have the option of cancelling this Charter Party.

(b) Should the Owners anticipate that, despite the exercise of due diligence, the Vessel will not be ready to load by the cancelling date, they shall notify the Charterers thereof without delay stating the expected date of the Vessel's readiness to load and asking whether the Charterers will exercise their option of cancelling the Charter Party, or agree to a new cancelling date.

Such option must be declared by the Charterers within 24 running hours after the receipt of the Owners' notice. If the Charterers do not exercise their option of cancelling, then this Charter Party shall be deemed to be amended such that the seventh day after the new readiness date stated in the Owners' notification to the Charterers shall be the new cancelling date.

-0-0-0-0-0-0-0-0-

/mlp

# EXHIBIT C

**VOYAGE CALCULATION DRY**

Printed: 9-9-2009 16:43

Vessel **ONEGO PASSAT**

Calculation: <b>109776</b>	Curr: <b>USD</b>	Running cost: <b>5.125 /day</b>	Speed
Calc. Date: <b>25-8-2009 11:08</b>		Deadweight: <b>8.000</b>	Loaded: <b>12,00</b>
Done by: <b>RDB</b>		Sqm/Grain Cap.: <b>336.943</b>	Ballast: <b>12,00</b>
		Bale Cap.: <b>336.797</b>	

**Charterers**

Charterer: <b>OCEAN BULK CARRIERS</b>	Commodity: <b>SALT IN BULK</b>	Gross freight: <b>172800</b>
Quantity: <b>7200 M</b>	Loading: <b>TOCOPILLA</b>	Commission: <b>8640</b>
Rate: <b>24 M</b>	Discharge: <b>BALBOA</b>	Net freight: <b>164160</b>
Terms Load: <b>1 D - SHINC</b>	Terms Disch. <b>5000 M - SHINC</b>	
Commission: <b>5,000 %</b>	LOW: <b>%</b>	

**Estimated Port Calls**

	T	J/D	Distance	Steam	Add. %	Port	Cost	C. Cost	Arrival	Departure
SAN ANTONIO	B			0,00						4-9-2009 9:54
TOCOPILLA	L		697	2,42		1,00	19014		6-9-2009 19:58	7-9-2009 19:58
BALBOA	D		2055	7,14		1,44	11000		14-9-2009 23:20	16-9-2009 9:53

**Fuel Details**

Grade	Cons. Stm/day	Cons. Prt/day	Price	Total Cons. Tons	Total Cost	Voyage Days	Extra
IFO	11,00		511	116,16	59,396	Steam:	9,56 1,00
MDO	1,00	1,00	597	13,50	8,060	Port:	2,44 0,50
LSFO			483	0,00	0	Total days:	13,50
LSMDO			635	0,00	0	Total distance:	2,752

**Financial Summary**

**Sensitivity Analysis**

			Rate/WS	Net Daily	Lumpsum
Gross Freight:	172.800		22,50	3.918	0
Other Income:	0	Net Daily:			
Bunker Compensation:	0	Running Cost:	22,75	4.045	0
Demurrage:	0	Net Monthly:	23,00	4.172	0
Despatch:	0	Net Revenue:	23,25	4.298	0
Commission:	8.640		23,50	4.425	0
Specified Expenses:	3.533	TCE	23,75	4.552	0
Bunker Cost:	67.456	Break Even:	24,00	4.678	0
Port Cost:	30.014		24,25	4.805	0
Cargo Cost:	0	+/- 1:	24,50	4.932	0
			24,75	5.058	0
		Net Daily - Sensitivity basis	25,00	5.185	0
		+/-1000 Cargo: /day	25,25	5.312	0
Net Freight:	164.160	Extra steam day: /day	25,50	5.438	0
Total Cost:	101.003	Extra port day: /day	25,75	5.565	0
Net Income:	63.157				

**Specified Expenses**

Hold Cleaning::	1.000
Miscellaneous expenses::	500
Bonus to master::	750
C/V/E : :	473
Insurance (P&I/FDD, etc.) ::	810

# EXHIBIT D

Vessel | **ONEGO PASSAT**

Calculation: 110859	Curr: USD	Running cost: 5,125 /day	Speed
Calc. Date: 9-9-2009 18:16		Deadweight: 8,000 Draft/SSW: 6,40	Loaded: 12,00
Done by: RDB		Sqm/Grain Cap.: 336.943	Ballast: 12,00
		Bale Cap.: 336.797	

**Charterers**

Charterer: EDF	Commodity: SUGAR IN BAGS	Gross freight: 316800
Quantity: 7200 M	Loading: PUERTO QUETZAL	Commission: 22176
Rate: 44 M	Discharge: COATZACOALCOS	Net freight: 294624
Terms Load: 1500 M - SHINC	Terms Disch. 1000 M - SHEX	
Commission: 7,000 % LOW: %		

**Estimated Port Calls**

	T	J/D	Distance	Steam	Add.%	Port	Cost	C.Cost	Arrival	Departure
SAN ANTONIO	B			0,00						10-9-2009 6:25
PUERTO QUETZAL	L		3045	10,57		4,80	8000		20-9-2009 20:05	25-9-2009 15:17
PANAMA CANAL	C	39	866	3,01		1,00	26500		28-9-2009 15:32	29-9-2009 15:32
COATZACOALCOS	D		1330	4,62		10,70	20002		4-10-2009 6:25	14-10-2009 23:13

**Fuel Details**

Grade	Cons.Stm/day	Cons.Prt/day	Price	Total Cons.Tons	Total Cost	Voyage Days	Extra
IFO	11,00		511	211,20	107.993	Steam:	18,20 1,00
MDO	1,00	1,00	597	36,20	21.611	Port:	16,50 0,50
LSFO			483	0,00	0	Total days:	36,20
LSMDO			635	0,00	0	Total distance:	5.241

**Financial Summary**

**Sensitivity Analysis**

			Rate/WS	Net Daily	Lumpsum
Gross Freight:	316.800	Net Daily:	42,50	2.618	0
Other Income:	0	Running Cost:	42,75	2.665	0
Bunker Compensation:	0	Net Monthly:	43,00	2.711	0
Demurrage:	0	Net Revenue:	43,25	2.757	0
Despatch:	0		43,50	2.803	0
Commission:	22.176	TCE	43,75	2.850	0
Specified Expenses:	5.689	Break Even:	44,00	2.896	0
Bunker Cost:	129.604		44,25	2.942	0
Port Cost:	54.502	+/- 1:	44,50	2.988	0
Cargo Cost:	0		44,75	3.035	0
		Net Daily - Sensitivity basis	45,00	3.081	0
Net Freight:	294.624	+/-1000 Cargo: /day	45,25	3.127	0
Total Cost:	189.795	Extra steam day: /day	45,50	3.173	0
Net Income:	104.829	Extra port day: /day	45,75	3.220	0

**Specified Expenses**

Hold Cleaning::	1.000
Miscellaneous expenses::	500
Bonus to master::	750
C/V/E ::	1.267
Insurance (P&I/FDD,etc..) ::	2.172

**Comments**

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# **EXHIBIT E**



CHALOS, O'CONNOR & DUFFY, LLP  
Attorneys for Plaintiff,  
ONEGO SHIPPING & CHARTERING BV  
366 Main Street  
Port Washington, New York 11050  
Tel: (516) 767-3600  
Fax: (516) 767-3605  
Owen F. Duffy (OD-3144)  
Michael S. Weinstock (MW-8520)

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
ONEGO SHIPPING & CHARTERING BV,

Plaintiff,

09 CV \_\_\_\_ (\_\_\_\_)

v.

**ATTORNEY'S DECLARATION  
THAT DEFENDANT CAN NOT  
BE FOUND WITHIN THE  
DISTRICT FOR PURPOSES OF  
RULE B MARITIME  
ATTACHMENT**

OCEAN BULK CARRIERS CORP.,

Defendant.

-----X

This declaration is executed by the attorney for the Plaintiff, ONEGO SHIPPING & CHARTERING BV, (hereinafter "ONEGO SHIPPING"), in order to secure the issuance of a Summons and Process of Attachment and Garnishment in the above-entitled, *in personam*, Admiralty cause.

Pursuant to 28 U.S.C. § 1746, Owen F. Duffy, declares under penalty of perjury:

1. I am a partner at the law firm of Chalos, O'Connor & Duffy LLP representing Plaintiff ONEGO SHIPPING in this case.

2. I have personally inquired or have directed inquiries into the presence of the Defendant OCEAN BULK CARRIERS CORP in this District.

3. I have personally checked with the office of the Secretary of State of the State of New York, using the Secretary of State's Division of Corporations database, and I have determined that, as of October 8, 2009, the Defendant OCEAN BULK CARRIERS CORP is not incorporated pursuant to the laws of New York, is not qualified to conduct business within the State of New York and has not nominated agents for the service of process within New York because the Secretary of State of the State of New York has no records for the Defendant OCEAN BULK CARRIERS CORP.

4. I have inquired of Verizon Telephone Company whether the Defendant OCEAN BULK CARRIERS CORP can be located within this District. The Verizon Telephone Company has advised me that the Defendant does not have any telephone number listings within this District.

5. I have further consulted with several other telephone directories on the internet, and I have found no telephone listing or address for the Defendant OCEAN BULK CARRIERS CORP within this District.

6. I have further made several searches on the internet with various search engines including Google and other and maritime websites, and I have found no indication that the Defendant OCEAN BULK CARRIERS CORP can be found within this District.

7. In that I have been able to determine that the Defendant is not based in the District and that I have found no indication that the Defendant can be found within this District, I have formed a good faith belief that the Defendant does not have sufficient contacts or business activities within this District to defeat maritime attachment under Rule B of the Supplemental Rules for Admiralty or Maritime Claims as set forth in the Federal Rules of Civil Procedure.

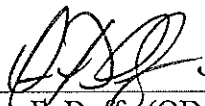
8. It is my belief, based upon my own investigation that the Defendant cannot be found within this District for the purposes of Rule B of the Supplemental Rules for Admiralty or Maritime Claims of the Federal Rules of Civil Procedure.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: Port Washington, New York  
October 8, 2009

CHALOS, O'CONNOR & DUFFY, LLP  
Attorneys for Plaintiff,  
ONEGO SHIPPING & CHARTERING BV

By: \_\_\_\_\_

  
Owen F. Duffy (OD-3144)  
Michael S. Weinstock (MW-8520)  
366 Main Street  
Port Washington, New York 11050  
Tel: (516) 767-3600  
Fax: (516) 767-3605

**VERIFICATION**

Pursuant to 28 U.S.C. § 1746, Owen F. Duffy, declares under the penalty of perjury:

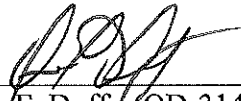
1. That I am a partner at the law firm of Chalos, O'Connor & Duffy LLP, counsel for the Plaintiff, ONEGO SHIPPING AND CHARTERING BV., herein;
2. That I have read the foregoing verified complaint and know the contents thereof;
3. That I believe the matters to be true based on documents and information obtained from employees and representatives of the Plaintiff through its agents, underwriters and attorneys; and
4. That the reason that this verification was made by deponent and not by the Plaintiff is because the verification of the officers of Plaintiff could not be obtained within the time constraints presented by the circumstances of this case.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: Port Washington, New York  
October 8, 2009

CHALOS, O'CONNOR & DUFFY, LLP  
Attorneys for Plaintiff,  
ONEGO SHIPPING & CHARTERING BV

By: \_\_\_\_\_



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